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July 26, 2019

**Kassym-Jomart Tokaev
The President of the Republic of Kazakhstan**

Republic of Kazakhstan
Nur-Sultan city
Mangilik Yel St., 6
Government House

Re: Protecting Human Rights in Kazakhstan

Dear President Kassym-Jomart Tokaev,

On behalf of Human Rights Watch, please accept my regards.

Human Rights Watch is an independent nongovernmental organization (NGO) that monitors human rights in over 90 countries around the world. We have worked on human rights in Kazakhstan for more than two decades, on issues including freedom of expression, assembly, and association, labor rights, and protection of children with disabilities.

It has been just over one month since you were sworn in as Kazakhstan's president. We are writing to draw your attention to some key human rights challenges facing the country that we hope you and your government will address as a matter of priority.

Address Election Shortcomings

In your inauguration speech on June 12, 2019, you stated "The elections reinforced [Kazakhstan's] principles of democracy. There was a fair and open competition at the polling stations."

Unfortunately, this claim is not consistent with the [findings of the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights \(OSCE/ODIHR\) election monitoring mission.](#)

The OSCE/ODIHR election monitoring mission concluded that “significant irregularities were observed on election day, including cases of ballot box stuffing, and a disregard of counting procedures meant that an honest count could not be guaranteed, as required by OSCE commitments.” They also noted that the election “was tarnished by clear violations of fundamental freedoms as well as pressure on critical voices.” In fact, none of Kazakhstan’s past elections have been found to be free and fair by independent election observers.

We urge you to take meaningful steps to address the concerns raised by the OSCE/ODHIR election monitoring mission, for example, the “serious shortcomings in the legislative framework and its implementation,” as well as ODIHR priority recommendations from previous elections that Kazakhstan has left unaddressed.

Lift Restrictions on Freedom of Assembly

On June 12, you noted in your inauguration speech that “the authorities are obliged to hear people’s demands, solve problems on the ground, and must be accountable to the citizens.” Yet, as you are aware, authorities in Kazakhstan routinely violate article 32 of the Constitution, which guarantees Kazakh citizens the right to peaceful protest. The former United Nations (UN) special rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, following a visit to Kazakhstan in 2015, concluded that “In practice, the [Kazakh] Government’s approach to regulating assemblies renders that right meaningless.”

Kazakh authorities routinely deny permits for peaceful protests against government policies. Police break up even single-person unauthorized protests, and arbitrarily detain organizers and participants. This has been especially apparent in recent months, including in the days immediately following the presidential election, when law enforcement officers detained approximately four thousand people who took to the street to peacefully protest against the presidential election.

As the guarantor of Kazakhstan’s Constitution, we urge you to begin implementing your initiative to review Kazakhstan’s highly restrictive public assembly law, with a view to amending legislation to ensure it is consistent with Kazakhstan’s international commitments. In the meantime, we also urge your government to take immediate action to lift restrictions in practice on the right to protest.

Cease Using Overbroad Criminal Laws Against Civil Society

You announced in your inauguration speech the creation of a National Public Trust Council, to develop dialogue between the government and society, one based on “pluralism of opinion.” But

without meaningful action to bring an end to the authorities' crackdown on critical voices, including on human rights defenders and other activists, a promise for dialogue alone will not be convincing.

For many years, Human Rights Watch has documented how authorities have used the vague and overbroad criminal charge of "inciting discord" against a range of civil society activists and others to try and silence them. In May 2016, authorities imprisoned for five years Maks Bokaev and Talgat Ayan, activists who peacefully protested against proposed land code amendments, on multiple spurious criminal charges, including "inciting social discord." While Ayan was released on parole in April 2018, Bokaev to date remains unjustly incarcerated. Maks Bokaev should be immediately released. And convictions of both should be quashed.

In March 2018, a court banned the unregistered opposition movement Democratic Choice of Kazakhstan (DVK), finding the group's activities "extremist." Since then, authorities have increased harassment of perceived or actual DVK supporters and have brought charges or prosecuted several individuals for allegedly supporting or financing the banned opposition group. In Almaty, two single mothers of three and four children, respectively, and a mother of a child with a disability have been placed in pre-trial detention on extremism charges, after they each participated in an unsanctioned rally on May 1 that the banned DVK had called for. They each face up to two years in prison.

In March 2019, authorities placed activist Serikjan Bilash under house arrest on suspicion of "inciting national discord." Bilash is an ethnic Kazakh activist and head of the Atajurt human rights group, which documents abuse and arbitrary detention of Turkic Muslims, including ethnic Kazakhs, in Xinjiang, China. His case will go to trial July 29, and if convicted, Bilash faces up to seven years in prison. Authorities should credibly charge Bilash or release him immediately.

We urge your government to give meaning to your dialogue initiative by freeing Maks Bokaev from prison, and by introducing amendments to Criminal Code article 174 "inciting social, national, clan, racial, class, or religious discord" to prevent arbitrary prosecutions that violate human rights norms.

Uphold the Rights of Children with Disabilities

On the occasion of your inauguration, you also called for a policy of sustainable development of human capital and identified Kazakhstan's youth as playing a crucial role in being a "driving force of progress" in the country. We urge you not to leave out children with disabilities from these initiatives.

Kazakhstan ratified the UN Convention on the Rights of Persons with Disabilities in April 2015, and committed to significantly expanding inclusive education, whereby children with and without disabilities study together. In May 2019, the government adopted a comprehensive plan to protect the rights of persons with disabilities in Kazakhstan.

However, progress is slow and the majority of children with disabilities cannot access inclusive, quality education on an equal basis with others. Children with disabilities are isolated at home or segregated into special schools or special classrooms in mainstream schools. A key barrier to inclusive education is the Psychological-Medical-Pedagogical Consultation (PMPK), which assesses children with disabilities to determine the kind of education they get.

Children with disabilities living in closed children's institutions, known as Special Social Service Centers, are at risk of physical violence, forced sedation, and neglect, and receive little or no education at all. Kazakhstan should make it a priority to move children with disabilities out of closed residential institutions and provide support for children with disabilities to live with their families or in other family settings in the community, including being able to access a quality, inclusive education in their community.

Cease the Crackdown on Independent Labor Organizing

In recent years there has been a concerted government crackdown on the independent trade union movement in Kazakhstan. Although the government received a high-level tripartite mission to Kazakhstan by the International Labor Organization (ILO) in May 2018, Kazakh authorities took no meaningful steps to restore freedom of association rights for independent trade unions or introduce amendments to the trade union law. In June, the ILO's Committee on the Application of Standards designated Kazakhstan for a special paragraph, one of the ILO's highest sanctions. In September, Kazakhstan will have to report before the committee on steps taken to address its concerns regarding Kazakhstan's compliance with ILO Convention 87.

The Kazakh government should waste no time implementing the ILO conclusions in full, in particular, revising the 2014 Trade Union Law and 2015 Labor Code to bring them into compliance with ILO standards, and allowing the Confederation of Independent Trade Unions of Kazakhstan, shuttered by court order in 2017, to reopen and carry out its activities without interference. Authorities should also cease politically motivated criminal prosecutions of trade union leaders and allow Larisa Kharkova, Amin Eleusinov, Nurbek Kushakbaev, and Erlan Baltabay, to resume their trade union activities without interference or harassment.

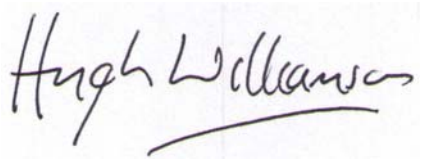
Lift Restrictions on Freedom of Speech and the Media

Independent and opposition journalists in Kazakhstan face harassment, arbitrary detention, and spurious criminal prosecutions. Authorities block websites, including social media. Each year, AdilSoz, a local media watchdog, records dozens of detentions, arrests, convictions, or limits on freedoms of journalists. In December 2017, problematic media and information law amendments entered into force, which undermine investigative reporting and limit access to state-held information. Libel remains a criminal offense. In the last month, police have detained journalists attempting to report on peaceful protests. In one instance, police detained an accredited foreign correspondent, seizing his accreditation and causing him to sustain a black eye.

Human Rights Watch calls on you to bring an end to harassment and reprisals against independent and critical journalists; end the arbitrary blocking of websites, including social media; decriminalize libel; and to commission a review of the media and information law, with a view to making the law compatible with international standards on freedom of the media and speech.

We thank you for your attention to these important matters. We look forward to continuing our constructive engagement with the Kazakh government. We would welcome the opportunity to discuss the points raised on an occasion at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Hugh Williamson". The signature is written in a cursive style with a long horizontal flourish underneath the name.

Hugh Williamson
Director, Europe and Central Asia Division
Human Rights Watch